

him, shall hold a hearing of record to receive testimony on the tribal proposal(s).

(b) The hearing shall be held after appropriate public notice beginning at least twenty (20) days prior to the date of such hearing, and after consultation with the governing body of the tribe or group regarding the date and location of the hearing, to obtain the testimony of members of the governing body and other representatives, spokesmen or members of the tribe or group on the proposal(s).

(c) All testimony at the hearing shall be transcribed and a transcript thereof shall be furnished to the Commissioner and the tribal governing body immediately subsequent to the hearing. Particular care shall be taken to insure that minority views are given full opportunity for expression either during the hearing or in the form of written communications by the date of the hearing.

(d) Whenever two or more tribes or groups are involved in the use or distribution of the judgment funds, including situations in which two or more Area Offices are concerned, every effort shall be made by the Area Director or Directors to arrange for a single hearing to be conducted at a time and location as convenient to the involved tribes and groups as possible. Should the tribes and groups not reach agreement on such time or place, or on the number of entities to be represented at the hearing, the Commissioner, after considering the views of the affected tribes and groups, shall within twenty (20) days of receipt of such advice by the Area Director, designate a location and date for such hearing and invite the participation of all entities he considers to be involved and the Commissioner's decision shall be final.

**§87.5 Submittal of proposed plan by Secretary.**

Subsequent to the hearing of record, the Commissioner shall prepare all pertinent materials for the review of the Secretary. Pertinent materials shall include:

(a) The tribal use or distribution proposal or any alternate proposals;

(b) A copy of the transcript of the hearing of record;

(c) A statement on the hearing of record and other evidence reflecting the extent to which such proposal(s) meets the desires of the affected tribe or group, including minorities views;

(d) Copies of all pertinent resolutions and other communications or documents received from the affected tribe or group, including minorities;

(e) A copy of the tribal constitution and bylaws, or other organizational document, if any; a copy of the tribal enrollment ordinance, if any; and a statement as to the availability or status of the membership roll of the affected tribe or group;

(f) A statement reflecting the nature and results of the investment of the judgment funds as of thirty (30) days of the submittal of the proposed plan, including a statement concerning attorney fees and litigation expenses;

(g) A statement justifying any compromise proposal developed by the Commissioner in the event of the absence of agreement among any and all entities on the division or apportionment of the funds, should two or more entities be involved;

(h) And a statement regarding the feasibility of the proposed plan, including a timetable prepared in cooperation with the tribal governing body, for the implementation of programing and roll preparation.

Within one hundred and eighty (180) days of the appropriation of the judgment funds the Secretary shall submit a proposed plan, together with the pertinent materials described above, simultaneously to each of the Chairmen of the Congressional Committees, at the same time sending copies of the proposed plan and materials to the governing body of the affected tribe or group. The one hundred and eighty (180) day period shall begin on the date of the Act with respect to all judgments for which funds have been appropriated and for which enabling legislation has not been enacted.

**§87.6 Extension of period for submitting plans.**

An extension of the one hundred and eighty (180) day period, not to exceed ninety (90) days, may be requested by the Secretary or by the governing body

of any affected tribe or group submitting such request to both Congressional Committees through the Secretary, and any such request shall be subject to the approval of both Congressional Committees.

**§ 87.7 Submittal of proposed legislation by Secretary.**

(a) Within thirty (30) calendar days after the date of a resolution by either House disapproving a plan, the Secretary shall simultaneously submit proposed legislation authorizing the use or distribution of the funds, together with a report thereon, to the Chairmen of both Congressional Committees, at the same time sending copies of the proposed legislation to the governing body of the affected tribe or group. Such proposed legislation shall be developed on the basis of further consultation with the affected tribe or group.

(b) In any instance in which the Secretary determines that circumstances are not conducive to the preparation and submission of a plan, he shall, after appropriate consultation with the affected tribe or group, submit proposed legislation within the 180-day period to both Congressional Committee simultaneously.

**§ 87.8 Enrollment aspects of plans.**

An approved plan that includes provisions for enrollment requiring formal adoption of enrollment rules and regulations shall be implemented through the publication of such rules and regulations in the FEDERAL REGISTER. Persons not members of organized or recognized tribes and who are not citizens of the United States shall not, unless otherwise provided by Congress, be eligible to participate in the use or distribution of judgment funds, excepting heirs or legatees of deceased individual beneficiaries.

**§ 87.9 Programing aspects of plans.**

In assessing any tribal programing proposal the Secretary shall consider all pertinent factors, including the following: the percentage of tribal members residing on or near the subject reservation, including former reservation areas in Oklahoma, or Alaska Native villages; the formal educational level

and the general level of social and economic adjustment of such reservation residents; the nature of recent programing affecting the subject tribe or group and particularly the reservation residents; the needs and aspirations of any local Indian communities or districts within the reservation and the nature of organization of such local entities; the feasibility of the participation of tribal members not in residence on the reservation; the availability of funds for programing purposes derived from sources other than the subject judgment; and all other pertinent social and economic data developed to support any proposed program.

**§ 87.10 Per capita payment aspects of plans and protection of funds accruing to minors, legal incompetents and deceased beneficiaries.**

(a) The per capita shares of living competent adults shall be paid directly to them. The shares of minors, legal incompetents and deceased individual beneficiaries, enhanced by investment earnings, shall be held in individual Indian money (IIM) accounts unless otherwise provided as set out in this section. While held in IIM accounts, said shares shall be invested pursuant to 25 U.S.C. 162a and shall be the property of the minors or legal incompetents or the estates of the deceased individual beneficiaries to whom the per capita payments were made.

(b)(1) Unless otherwise provided in paragraph (b)(2) of this section, minors' per capita shares, until the minors attain the age of 18 years, shall be retained in individually segregated IIM accounts and handled as provided in § 115.4 of this chapter. Should it be determined that the funds are to be invested pursuant to a trust, minors who will have reached the age of 18 years within six months after the establishment of the trust shall have their funds retained at interest in IIM accounts and paid to them upon attaining their majority.

(2) A private trust for the minors' per capita shares may be established subject to the approval of the tribal governing body and the Secretary on the following conditions:

(i) The tribal governing body specifically requests the establishment of